761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: January 15, 2008

OFFICE CORRESPONDENCE FILE NO. FO2200687

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: TODD S. ROGERS, CAPTAIN
CARSON STATION

Contents Noted
CAPT. T. Rogers

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS USE OF FORCE**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on August 2, 2007.

The Committee met on January 10, 2008, and consisted of me and Commanders Eric B. Smith (Leadership and Training Division), and Arthur Ng (FOR I). The Committee determined the use of force by Deputy Frankie J. Lobato #[redacted] was within Department policy.

Please advise the deputy of this finding.

JGJ:MOT:mt

TABLE OF CONTENTS

FO220687

Los Angeles County Sheriff's Department
Sup..visor's Report on Use of F..rce

Incident Information

URN: 407-10588-1628-145		Date: 08/02/2007	Time: 1120 HOURS
Location: CARSON STREET AND BON:TA STREET			
City or Station: CARSON			
Bureau/Station/Facility: FIELD OPERATIONS REGION II - CARSON STATION		Admin. Investigation: YES ☐ NO ☒	

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	CONWAY	DENNIS	P.

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	56	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	65	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	33	[redacted]

Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	THOMPSON	LARRY	A.	SGT.	YES ☐ NO ☒	YES ☐ NO ☒
					YES ☐ NO ☐	YES ☐ NO ☐

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	KELLEY	TINA	M.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	ZYMKOWITZ	MICHAEL	A.

Watch Commander's Signature: ______________________ Emp #: ________

Copy Provided to Employee by: ______________________ Emp #: ________

Supervisor Completing Form: MARSHALL W. BAIRD, SERGEANT (Print) Emp #: [redacted]

Unit Commanders Signature: ______________________ Emp #: ________ Date Signed: ________

PSTD Use Only

FO#

Original: Unit Commander
Copy: P.S.T.D.Headquarters, Employee

See Reverse

Supervisor's Report on Use of Force

URN: 407-10588-1628-145

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE APPLIED ***(Only One Code Per Block)***

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Type of Injury (Code)	Body Part (Code)
S1	E1	PH	NN	
E1	S1	TD	FR	WR
E1	S1	TD	AB	FA

See Front Side

Supervisor's Report on Use of Force
INVOLVED EMPLOYEE INFORMATION

URN: 407-10588-1628-145

Involved Employee

E1

Employee #	Last Name	First Name	Middle Name
[redacted]	LOBATO	FRANKIE	J.

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☒ Male ☐ Female	W	CARSON	166T

Shift:		Age:	Height:	Weight:
☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	507	170

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case #	
☐			Directed Force ☐ Significant Force ☒

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex:	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
☐ Male ☐ Female			

Shift:		Age:	Height:	Weight:
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital:	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

Supervisor's Report on Use of Force
SUSPECT INFORMATION

URN: 407-10588-1628-145

Suspect Information

S1

Last Name	REYES	First Name	JOEL	Middle Name	SARIO
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☒ Male ☐ Female	F	[redacted]	[redacted]	[redacted]

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
[redacted]	[redacted]	80	504	03/19/1927	147	☐

Booking #: 9889097 Primary Charge: 243 (b) P.C. Secondary Charge: 4100 C.A.M.C. Criminal History [redacted]

Hospital Admission? ☐ Rec'd Treatment At: LITTLE COMPANY MARY HOSPITAL Coroner Case#: Mental History ☒

Under Influence: ☐ YES ☒ NO Substance: ______

Photos of Suspect's Injuries ☒ YES ☐ NO

Suspect Interview

Date:	Time:	
08/02/2007	2100 HOURS	Audiotape: ☒ Videotape: ☒

Suspect Information

S_

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☐ Male ☐ Female				

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
						☐

Booking #: Primary Charge: Secondary Charge: Criminal History ☐

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☐ NO Substance: ______

Photos of Suspect's Injuries ☐ YES ☐ NO

Suspect Interview

Date:	Time:	
		Audiotape: ☐ Videotape: ☐

Suspect Information

S_

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☐ Male ☐ Female				

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
						☐

Booking #: Primary Charge: Secondary Charge: Criminal History ☐

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☐ NO Substance: ______

Photos of Suspect's Injuries ☐ YES ☐ NO

Suspect Interview

Date:	Time:	
		Audiotape: ☐ Videotape: ☐

See Other Side

Supervisor's Report on Use of Force

URN: 407-10588-1628-145

Non-Employee Witnesses (Continuation)

Last Name [redacted]		First Name [redacted]		Middle Name [redacted]
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph. [redacted]	Home Ph. [redacted]
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.
Last Name		First Name		Middle Name
Street Address	City	Zip Code	Work Ph.	Home Ph.

INVESTIGATIVE SUMMARY
USE OF FORCE - FRACTURED WRIST
IAB CASE NUMBER FO2200687
URN 407-10588-1628-145

On August 2, 2007, at approximately 1930 hours, Internal Affairs Bureau Sergeants Marshall Baird and Rossanna Taylor along with Lieutenant David Whitham responded to Carson Station regarding a use of force, broken wrist. The Office of Independent Review was notified, but did not respond.

Deputies Lobato and Conway responded to the Carson Community Center regarding a radio call of a business disturbance at the "Farmer's Market." When Deputies Lobato and Conway arrived they contacted a security guard who requested they accept a private person's arrest of the suspect (Reyes).

The deputies approached Reyes and began to explain the private person's arrest procedures. Lobato then obtained Reyes' identification from him and clipped it under a pencil in his breast pocket. Reyes appeared to become agitated and grabbed at the front of Lobato's shirt in an apparent attempt to retrieve his identification. Lobato stepped backwards and attempted to calm Reyes by telling him to relax; however, Reyes continued to advance toward Lobato, striking him in the chest and grabbing at his duty belt, in the front, away from his gun.

Suspect Reyes then grabbed Lobato's pencil from his shirt pocket and his radio microphone which was clipped to the center of his shirt. Reyes held the pencil in his left hand and swung the microphone by the cord with his other hand. Lobato told Reyes to stop resisting and that the deputies did not want to hurt him.

Reyes continued to attack Deputy Lobato. Deputy Lobato did not want to use an impact weapon or taser on Reyes because of his age. Lobato grabbed Reyes' left wrist and arm and performed a take down of Reyes. Reyes then complied and allowed the deputies to handcuff him without further incident.

Suspect Reyes was subsequently transported to Little Company of Mary Hospital in Torrance, where he was examined. During the exam, Reyes exhibited mood swings from tears to laughter to anger. Dr. Paul Randau approved Reyes for booking.

As the deputies were preparing to handcuff Reyes prior to transporting him to the station, Reyes, for the first time, reported pain in his right wrist. Dr. Randau x-rayed Reyes and diagnosed a fracture of his right wrist (distal radius).

Suspect Reyes was transported to and booked at Carson Station on the indicated charges and later released on a citation.

The summary of this incident is based on information obtained from the original incident report (***Exhibit A***) along with interviews of the involved employee, witness and suspect.

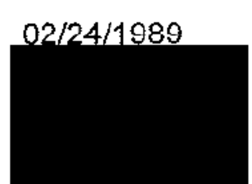
<u>INVOLVED PERSONNEL</u>

<u>Lobato</u>, Fankie J., Deputy Sheriff (Senior Field Training Officer B-1) #[redacted]
Field Operations Region II
Carson Station

<u>Work History</u>

<u>Lobato</u>, Frankie J.

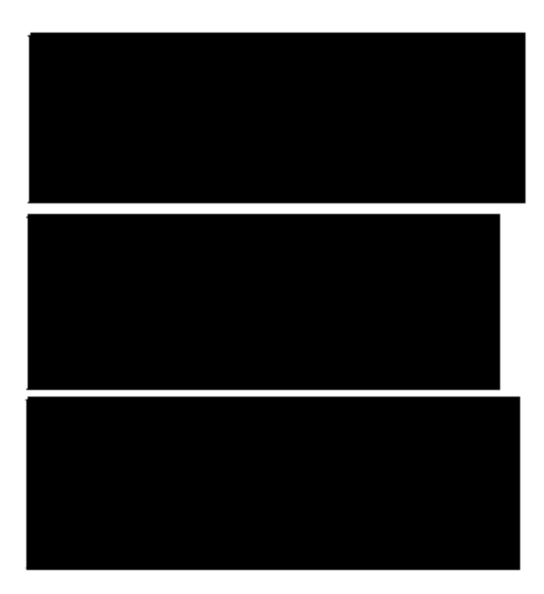
Date of Employment	02/24/1989
Date Assigned to Patrol	[redacted]
Date Completed Patrol Training	
Prior Founded Force Incidents	



<u>SUSPECT</u>

<u>REYES</u>, Joel Sario MF/80, 504, 143, DOB: 03/19/1927
[redacted]

<u>WITNESSES</u>



[redacted]

[redacted]

INJURIES

No injuries were sustained by Department personnel.

Suspect Reyes sustained a broken and/or cracked bone to his right distal radius. He also sustained an abrasion to his forehead. Suspect Reyes was examined and treated at Little Company Mary Hospital - Torrance - Emergency Department by Doctor Paul C. Randau (***Refer to Exhibit C, for further information***).

PHYSICAL EVIDENCE

None.

INVESTIGATORS OBSERVATIONS

Investigators did not respond to the scene until the following day. The location is on the northeast corner of Carson Street and Bonita Street (refer to Exhibit D, photographs). The deputies made contact with Suspect Reyes on a grassy area southwest of the Hilton Hotel. The Carson Farmer's Market is located northwest of the scene.

WEAPONS USED BY INVOLVED DEPUTY

Deputy Lobato utilized his hands to use a Departmentally approved takedown.

WEAPONS USED BY SUSPECT

Hands.

PROPERTY DAMAGE

None.

CRIMINAL INVESTIGATOR/CHARGES FILED

Investigator:	Detective Louis Suazo #[redacted] Carson Station Detective Bureau
Charges Filed:	148(a) P.C., Obstruct/Interfering with a Peace Officer, 415(2) P.C., Disturbing the Peace (Loud and Unreasonable Noise) by Deputy District Attorney Mark Goldman, Case #27395251. The case was handled as an "office hearing."

LIGHTING AND WEATHER CONDITIONS

The incident occurred during daylight hours. The weather was warm and humid.

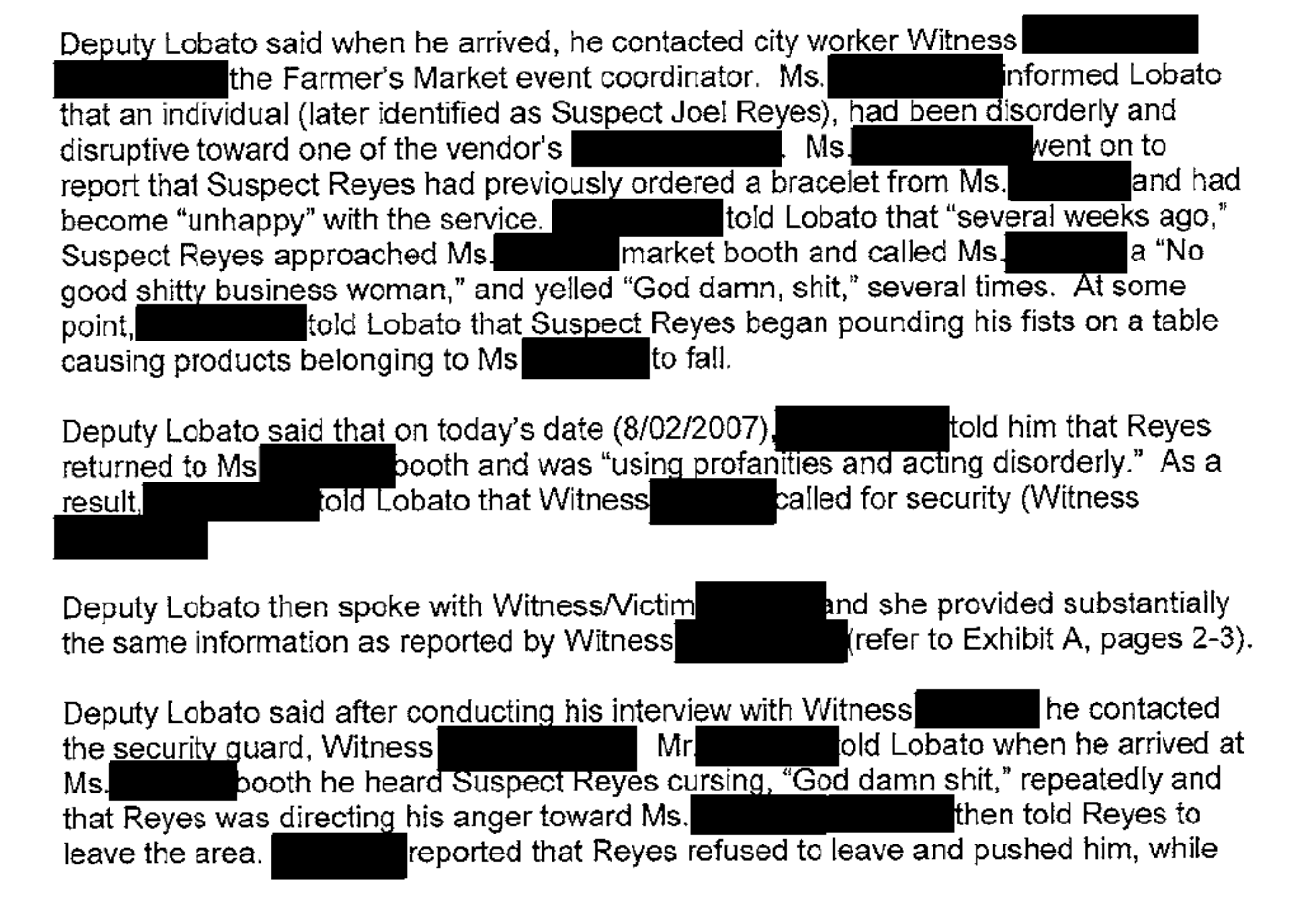
INVOLVED EMPLOYEE STATEMENTS

Deputy Frankie Lobato

Deputy Lobato was interviewed on August 2, 2007, at approximately 2300 hours, at Carson Station by Sergeants Marshall Baird and Rossanna Taylor. The interview was recorded in digital format. The following is a summary of that interview:

On the day of the incident, Deputy Lobato started his shift at [redacted] hours. He was partnered with Carson Station Deputy Dennis Conway (witness) and they were designated as unit "166T." Deputy Lobato was wearing a Sheriff's Class A uniform with a gun belt, ballistic vest and black boots.

Deputy Lobato said he and his partner, Deputy Conway responded to the City of Carson, Community Center parking lot regarding a disturbance (Tag #121), at the "Farmer's Market."



Deputy Lobato said when he arrived, he contacted city worker Witness [redacted] the Farmer's Market event coordinator. Ms. [redacted] informed Lobato that an individual (later identified as Suspect Joel Reyes), had been disorderly and disruptive toward one of the vendor's [redacted]. Ms. [redacted] went on to report that Suspect Reyes had previously ordered a bracelet from Ms. [redacted] and had become "unhappy" with the service. [redacted] told Lobato that "several weeks ago," Suspect Reyes approached Ms. [redacted] market booth and called Ms. [redacted] a "No good shitty business woman," and yelled "God damn, shit," several times. At some point, [redacted] told Lobato that Suspect Reyes began pounding his fists on a table causing products belonging to Ms [redacted] to fall.

Deputy Lobato said that on today's date (8/02/2007), [redacted] told him that Reyes returned to Ms [redacted]ooth and was "using profanities and acting disorderly." As a result, [redacted]old Lobato that Witness [redacted]alled for security (Witness [redacted]

Deputy Lobato then spoke with Witness/Victim [redacted]nd she provided substantially the same information as reported by Witness [redacted](refer to Exhibit A, pages 2-3).

Deputy Lobato said after conducting his interview with Witness [redacted] he contacted the security guard, Witness [redacted] Mr [redacted]old Lobato when he arrived at Ms. [redacted]ooth he heard Suspect Reyes cursing, "God damn shit," repeatedly and that Reyes was directing his anger toward Ms. [redacted] then told Reyes to leave the area. [redacted] reported that Reyes refused to leave and pushed him, while

yelling profanities in the presence of other patrons which included children.

Deputy Lobato said [redacted] reported that after he informed Reyes he was going to call deputies to the scene, Reyes left the area. [redacted] told Lobato he was desirous of placing Reyes under citizen's arrest for "Disorderly Conduct," and signed a private person's arrest form.

Deputy Lobato said as he was gathering information from the involved parties and witnesses, he saw Suspect Reyes standing at the northeast corner of Carson Street and Bonita Street on a grassy area (*Refer to Exhibit D, photographs*), which was approximately two-hundred-feet east of where he was conversing with the informant [redacted] and other witnesses.

Lobato said at that point, he and his partner, Deputy Conway drove to where Reyes was standing to contact him regarding the citizen's arrest and to place him under arrest. When Lobato made contact with Reyes, he (Lobato) attempted to explain the private person's arrest procedures; however, Reyes from the start, seemed agitated and immediately called Lobato an "asshole," in broken English. Lobato described Reyes speech as "heavy accented Filipino."

Lobato said he could see that Reyes was "initially pretty agitated and was using profanities." Lobato said he asked Reyes to calm down and relax, and rubbed Reyes' shoulder to show compassion and comfort him to de-escalate the situation.

IAB NOTE: Deputy Lobato tape recorded the contact and incident involving Suspect Reyes. For further information, refer to verbatim transcript of the recording.

Reyes told Lobato he didn't have the right to talk with him or detain him without a warrant. Lobato said he positioned himself on Reyes left side, near his left arm. As he did so, Lobato continued rubbing Reyes shoulder and talking with him to "divert the conversation and the focus of the confrontation."

Lobato said at this point, he asked the suspect what his name was and he replied, "Reyes." He said Reyes then reached for his wallet and opened it. Lobato said Reyes grabbed his military identification and showed it to him. Lobato said it appeared that Reyes was trying to tell him that he was military veteran. Lobato said he continued to calm Reyes and at some point said to Reyes, "I will take this into consideration, please calm down." Lobato said Reyes calmed down long enough to give him his identification.

Lobato said he took Reyes' identification from him and clipped it under his pen on his

left shirt breast pocket. He said Reyes became agitated once again and stepped toward him and said something to the effect of: "You can't take that." Lobato said he believed Reyes was merely grabbing for his identification and didn't believe at this point Reyes had any intention of assaulting him.

Lobato said he "side-stepped" Reyes and "pleaded" with him to relax and understand his words. He said Reyes continued advancing and at one point struck Lobato in the chest and grabbed at the front of his gun belt. Lobato said he continued to retreat and move away from Reyes by side-stepping and using his footwork to avoid being assaulted. Lobato said his partner was close by and moved when he (Lobato) did. He said Reyes became "more and more agitated, didn't calm done anymore, and then started advancing at me." Lobato said he then told Reyes that he didn't want to hurt him. It was at this point Lobato made the decision to grab his pepper spray (O.C.). As Lobato did this, Reyes grabbed his radio microphone that was clipped to center of his uniform and his pencil from the left breast pocket with both hands.

Lobato said he quickly stepped away and placed his pepper spray back in the it's holder. Lobato considered using an impact weapon, but decided against it due to Reyes' age (eighty-years-old). Lobato said, "It was clear to me that he (Reyes) didn't understand our laws and maybe he's of a different culture, this was his way of explaining, I guess." Lobato said he was trying to be forgiving and still trying to de-escalate the situation.

Lobato said Reyes began swinging the microphone cord which was in his left hand with his pencil in his right. He said that at this point it was obvious to him, Reyes was "trying to get at me and I was pulling away as he's pulling toward him (Reyes) or sort of stretching the microphone cord." Lobato said he then noticed that his partner (Deputy Conway) started to move in to take some action, but Lobato instructed him to stop and told Conway, "No, we're gonna talk him down."

Lobato said that Reyes then lunged at him and he (Lobato) made the decision to use a takedown in order to control Reyes assaultive behavior. Lobato said he was cognizant of Reyes' age and physical stature and wanted to be "very" careful in deploying the takedown. He said, "I didn't want it to be a slam or a body slam where he could fall or anything like that."

Lobato said as Reyes "came at me, I grabbed his left wrist area, I guess, or forearm area, and his shoulder and I swung down to the ground, as taught in the Department in force."

IAB NOTE: ***On [redacted] Deputy Lobato [redacted] (refer to miscellaneous section, employee training resume).***

Deputy Lobato said he is "very proficient in force," and the technique he used

(takedown) was "textbook as taught." He said he teaches the same technique and reiterated that he performed it as taught. Lobato said Reyes went down very smoothly and that he "pulled up" on Reyes a little bit to break his fall onto the grassy area (***refer to Exhibit D, photographs***).

Lobato said as Reyes was forced to the ground, he was no longer resistive and complied. Lobato said Reyes was subsequently handcuffed without the need of any additional force. Lobato said as they assisted Reyes to his feet, he noticed he (Reyes) was "breathing very hard" so he and his partner placed Reyes in the rear seat of the radio car and called for paramedics and a sergeant to respond.

Lobato said that after the sergeant arrived (Sergeant Larry Thompson), he noticed that Reyes had sustained a small laceration or abrasion to his forehead just above the bridge of his nose. Lobato said paramedics arrived examined Reyes and released him for booking; however, Lobato said regardless of what the paramedics determined, he felt that Reyes needed to be examined at the hospital, since he was bleeding "a little bit" from the area above his nose.

Lobato and his partner subsequently transported Reyes to Little Company Mary Hospital in Torrance, where he was examined by the emergency room staff and Dr. Randau. Lobato said that even though Reyes hadn't complained of "severe pain," the emergency room doctor conducted a thorough examination which included a CT scan, chest x-ray and blood work.

Lobato said that after the exam was completed and Reyes was given an "okay to book." As Lobato was about to handcuff Reyes for transport back to Carson Station, he said Reyes "begged us not to handcuff his right hand." It was at this time that Lobato noticed that Reyes' right hand was swollen. He then requested that the doctor re-exam Reyes' right hand. The doctor subsequently took an x-ray of Reyes right hand and discovered that his right wrist (distal radial) was in fact fractured. Lobato said he believed Reyes injured his right wrist during the takedown as he broke his fall.

Suspect Reyes was treated by emergency staff for the fractured wrist and then transported to Carson Station, where he was booked.

Deputy Lobato said he notified the field supervisor, Sergeant Larry Thompson regarding the use of force.

For further information, refer to Deputy Lobato's verbatim transcript.

WITNESSES STATEMENTS

Sworn Witnesses

Deputy Dennis Conway
Deputy Conway was interviewed on August 2, 2007, at approximately 2335 hours by Internal Affairs Bureau Sergeants Marshall Baird and Rossanna Taylor. The interview was recorded in digital format. The following is a summary of that interview:

On the day of the incident, Deputy Conway started his shift at [redacted] hours. He was partnered with Carson Station Deputy Frankie Lobato (involved deputy) and they were designated as unit "166T." Deputy Conway was wearing a Sheriff's Class A uniform with a gun belt, ballistic vest and black boots. Conway was a newly assigned deputy to Carson Station and this was his second day working patrol.

Deputy Conway said he and Deputy Lobato responded to the Carson Farmer's Market regarding a business dispute (415B) call. Upon arriving at the location, he said they contacted the informant [redacted] and she reported that there was an elderly male Filipino (Suspect Reyes) wearing a black hat, green shirt and gray pants, that had been involved in a "confrontation" with one of the vendors. He said he and Lobato were told by the informant that Reyes was also cursing or using profanity while children were present. Conway said the informant then asked he and his partner to place Reyes under citizen's arrest.

Deputy Conway said based on the description the witnesses and informant gave to them, they saw a male who fit the description, standing on a "grassy knoll" at the corner of Carson Street and Bonita Street.

Deputy Conway said when they contacted the suspect, he noticed that the suspect had a very thick accent and was hard to understand. He recalled the suspect stating something to the effect of; "You need a warrant to talk to me." Conway said Lobato made "many attempts to calm the suspect down," by telling him "it's okay, calm down." He said they needed to determine who he was and get some form of identification from him. Conway said once Lobato obtained Reyes' identification, the suspect seemed to become more enraged, and started "aggressively grabbing at Deputy Lobato. As the suspect moved toward Lobato, Lobato would retreat. Conway said at some point, the suspect took control of Lobato's radio microphone and began waving it around. He also said Reyes was able to get a hold of Lobato's pen and/or pencil.

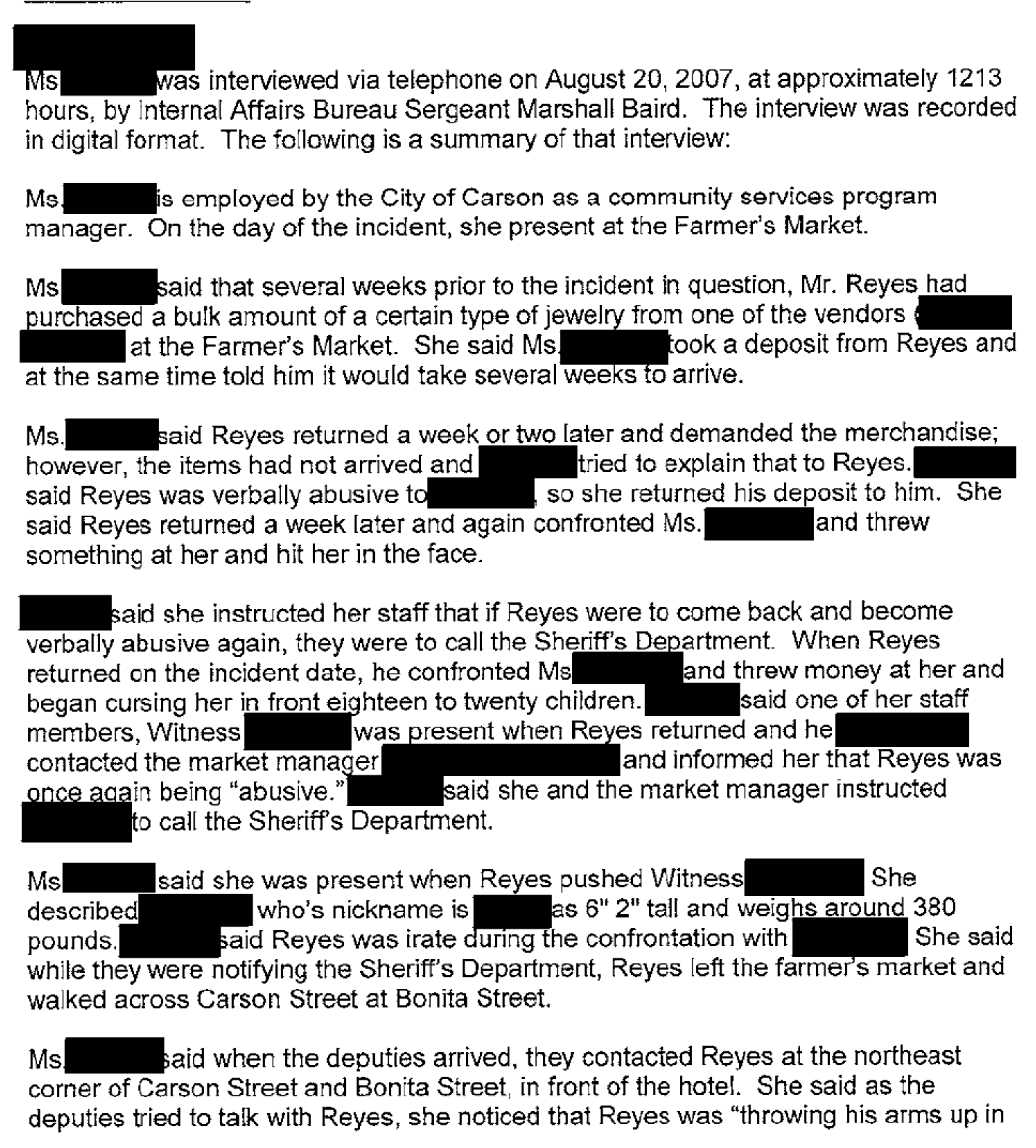
Conway said based on the actions of the suspect, he moved in closer, thinking in his head the suspect's behavior has placed him (suspect) in the "assaultive high risk category," so he was preparing to use force. Conway said as he was moving in closer to assist, Lobato told him, "I got it. I got it. I'm going to take him." He said Lobato then grabbed the suspect and forced him onto the grass, face first. Conway said the suspect was immediately handcuffed without any other force being used.

Conway said as they helped the suspect to his feet, he noticed blood dripping from his "eyes." He said the suspect was wearing sunglasses and believed Reyes sustained the injury to his face when he was forced to the ground.

Deputy Conway said he reported witnessing the use of force by Deputy Lobato to the field supervisor, Sergeant Larry Thompson.

For further information, refer to Deputy Conway's verbatim transcript.

<u>Civilian Witnesses</u>



[redacted]

Ms [redacted] was interviewed via telephone on August 20, 2007, at approximately 1213 hours, by Internal Affairs Bureau Sergeant Marshall Baird. The interview was recorded in digital format. The following is a summary of that interview:

Ms. [redacted] is employed by the City of Carson as a community services program manager. On the day of the incident, she present at the Farmer's Market.

Ms [redacted] said that several weeks prior to the incident in question, Mr. Reyes had purchased a bulk amount of a certain type of jewelry from one of the vendors [redacted] at the Farmer's Market. She said Ms. [redacted] took a deposit from Reyes and at the same time told him it would take several weeks to arrive.

Ms. [redacted] said Reyes returned a week or two later and demanded the merchandise; however, the items had not arrived and [redacted] tried to explain that to Reyes. [redacted] said Reyes was verbally abusive to [redacted], so she returned his deposit to him. She said Reyes returned a week later and again confronted Ms. [redacted] and threw something at her and hit her in the face.

[redacted] said she instructed her staff that if Reyes were to come back and become verbally abusive again, they were to call the Sheriff's Department. When Reyes returned on the incident date, he confronted Ms [redacted] and threw money at her and began cursing her in front eighteen to twenty children. [redacted] said one of her staff members, Witness [redacted] was present when Reyes returned and he [redacted] contacted the market manager [redacted] and informed her that Reyes was once again being "abusive." [redacted] said she and the market manager instructed [redacted] to call the Sheriff's Department.

Ms [redacted] said she was present when Reyes pushed Witness [redacted] She described [redacted] who's nickname is [redacted] as 6" 2" tall and weighs around 380 pounds. [redacted] said Reyes was irate during the confrontation with [redacted] She said while they were notifying the Sheriff's Department, Reyes left the farmer's market and walked across Carson Street at Bonita Street.

Ms. [redacted] said when the deputies arrived, they contacted Reyes at the northeast corner of Carson Street and Bonita Street, in front of the hotel. She said as the deputies tried to talk with Reyes, she noticed that Reyes was "throwing his arms up in

the air." [redacted] said she it appeared that Reyes was "getting irate."

Ms [redacted] said as she continued to observe the incident, she saw Reyes pull Lobato's radio cord from his shirt. She then saw Reyes grab at Lobato's gun belt. [redacted] said at this point, she saw Lobato grab onto Reyes by one of his arms and "sort of laid him down," on the ground. She described the takedown as "kind of guiding Mr. Reyes." [redacted] said she was approximately fifty-feet from where the deputies made contact with Reyes.

Ms. [redacted] said the deputies handcuffed Reyes and escorted him to the radio car. She said soon after that, other deputies and paramedics arrived. [redacted] did see any of the deputies use any additional force on the suspect after he was handcuffed.

For further information, refer to [redacted] verbatim transcript.

[redacted]

Ms. [redacted] was interviewed via telephone on August 20, 2007, at approximately 1225 hours by Internal Affairs Bureau Sergeant Marshall Baird. The interview was recorded in digital format. The following is a summary of that interview:

Ms. [redacted] said on the day of the incident, she was approximately forty to fifty away from where the deputies made contact with Suspect Reyes on the grassy area. She said the deputies approached Reyes and tried to "speak with him (Reyes), very calmly, one on each side of him, and he started hollering at them and kind of flinging his arms around."

[redacted] said Reyes then began "pushing them away and they kind of backed off a little bit." She said the deputies tried to explain to Reyes that they needed to talk with him to get his side of the story. [redacted] said the deputies tried to hold Reyes' arms behind his back, but Reyes remained uncooperative.

[redacted] said at some point, the deputies let go of Reyes and tried to talk to him, and that's when Reyes started "grabbing for Deputy Lobato, he pulled the radio on his (Lobato's) shirt." She said she could see Lobato's shirt being pulled out away from his body by Reyes. [redacted] said she noticed the other deputy (Conway) "kind of stood back behind him (Lobato)."

[redacted] said after "maybe five minutes or more of them trying to talk him (Reyes) down, Deputy Lobato just kind of, I saw him just grab his (Reyes') arm and kind of twist it around to get him down to the ground," face first. She said it didn't look as if Deputy Lobato was being really rough with Reyes and from her point of view, it appeared that Lobato was trying to be gentle, since Reyes was an older man.

[redacted] said as soon as Lobato laid Reyes down, the other deputy stepped up and tried to assist Lobato in putting handcuffs on Reyes. She said Reyes was "still kind of

fighting them at that point." [redacted] said after Reyes was handcuffed, both deputies continued to try and calm Reyes before assisting him to his feet.

[redacted] said after a few minutes, the deputies walked Reyes to the radio car and placed him in the rear seat. She said soon after that, additional deputies arrived along with paramedics.

[redacted] said she did not see any of the deputies use any additional force on Reyes after he was handcuffed. She described the deputies actions during this incident as "very respectful." [redacted] also said the deputies "were both very calm with the situation, they weren't rude, they weren't loud with him (Reyes), it seemed like they were trying to be very respectful , you know, of his age and everything."

For further information, refer to [redacted] verbatim transcript.

[redacted]

Mr. [redacted] was interviewed on October 1, 2007, at approximately 0930 hours by Internal Affairs Bureau Sergeant Marshall Baird. The interview was recorded in digital format. The following is a summary of that interview:

[redacted] is employed by the City of Carson as a recreation assistant. He has been assigned to work at the Farmer's Market for approximately [redacted] He is responsible for general clean up assisting the vendors and during and after the event.

[redacted] said that the week before the August 2, 2007, incident he had observed Suspect Reyes yelling obscenities at one of the vendors, [redacted] in front numerous children present at the event. He said Reyes had apparently tried to buy something from [redacted] but she was unable obtain the product. [redacted] said during the first contact, he told Reyes to leave and he complied.

On August 2, 2007, he was notified by [redacted] that Reyes had returned and was yelling at Ms. [redacted] again. When he arrived at Ms. [redacted] booth, [redacted] said Reyes was again using foul language while children were present. He then told Reyes that he had to leave or he was going to call the police. As [redacted] was calling the Sheriff's Department, he said Reyes walked up to him and "pushed his shoulder up against me and I was like, like this old man. He's lucky he's old." [redacted] said Reyes then pushed him again on the left side of his chest and walked off.

IAB NOTE: Witness [redacted] is 6' 1" and weighs 350 pounds. Suspect Reyes is 5' 4" and weighs 130 to 140 pounds.

[redacted] said when the deputies arrived, Reyes was gone. He said while the deputies were interviewing him, he spotted Reyes standing on the grass near the northeast corner of Carson Street and Bonita Street. [redacted] the pointed out Reyes to the

deputies.

[redacted] said the deputies drove over to where Reyes was standing and contacted him. He couldn't hear exactly what they were saying, but from past experience, he believed the deputies were attempting to detain Reyes. [redacted] said as the deputies grabbed onto Reyes' hands, he (Reyes) "started fighting with them." He said the deputies then forced Reyes to the ground in what he described as a"swooping motion." [redacted] said the deputies handcuffed Reyes and put him in the radio car.

[redacted] said soon after that paramedics arrived and examined Reyes. He said he heard the paramedics say something to the effect of; " There ain't nothing wrong with this guy (Reyes). You guys can take him."

For further information, refer to [redacted] *verbatim transcript.*

[redacted]

Internal Affairs Investigators made numerous attempts to contact Ms.[redacted] by calling and leaving a business card at her residence. On August 3, 2007, the Internal Affairs investigator had Lomita Station deputies (Vasquez) respond to [redacted] residence with no response. During the months of August and September, the investigator made weekly calls to Ms.[redacted] and left messages.

On October 1, 2007, the Internal Affairs Bureau Investigator responded to Ms.[redacted] residence and left a business card with a note to call. On October, 2, 207, Ms.[redacted] called the investigator and left a message. The investigator called Ms.[redacted] back, but there was no answer. To this date, Ms.[redacted] has not returned the investigator's call(s).

SUSPECT STATEMENTS

Joel Sario Reyes

Suspect Reyes was interviewed on August 2, 2007, by Internal Affairs Bureau Sergeant Marshall Baird. Also present was Carson Station Deputy Froilan A. Dinco, #[redacted] who assisted in translating in Tagali. The interview was conducted at Carson Station in the booking area. The interview was recorded in digital format. The following is a summary of that interview:

Mr. Reyes said he had gone to the Farmer's Market today to buy something. He said he was upset with the lady [redacted] since the products he ordered didn't arrive.

Mr. Rees said he was waiting for the bus when the deputies approached him and asked him for his identification. He said he gave his identification to the deputy (Lobato) and after giving it to the deputy he admitted he tried to take it back. Reyes also acknowledged that he grabbed Deputy Lobato in an attempt to retrieve his license.

IAB NOTE: The Internal Affairs Bureau investigator had Suspect Reyes demonstrate how he grabbed at Deputy Lobato. Refer to Exhibit E, Video CD.

Reyes said the deputy grabbed his wrist and forced him to the ground. Reyes said he injured his hand while being forced to the ground.

For further information, refer to Reyes' verbatim transcript.

MISCELLANEOUS SECTION

None.